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May 9, 2003

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MAY - 9 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Marlene R. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Advantage Cellular Systems, Inc.
CC Docket No. 96-45
Petition of Advantage Cellular Systems, Inc. to be Designated as an Eligible Telecommunications Carrier

Dear Ms. Dortch:

On behalf of Advantage Cellular Systems, Inc. and pursuant to Section 1.51(c)(1) of the Federal Communications Commission's Rules, enclosed for filing are an original and four (4) copies of the above referenced Petition. Also enclosed is a pink copy of the Petition. Please date-stamp and return this copy to my attention in the envelope provided.

If you have any questions, please communicate directly with the undersigned.

Sincerely,

Rebecca Murphy

Enclosures

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Before the
Federal Communications Commission
Washington, D.C. 20554

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Federal-State Joint Board on)
Universal Service) CC Docket No. 96-45
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Advantage Cellular Systems, Inc.)
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Application for Designation as an)
Eligible Telecommunications Carrier)
in the State of Tennessee)

To: Wireline Competition Bureau

**PETITION OF ADVANTAGE CELLULAR SYSTEMS, INC. TO BE
DESIGNATED AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

**ADVANTAGE CELLULAR
SYSTEMS, INC.**

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Its Attorneys

Dated: May 9, 2003

**PETITION OF ADVANTAGE CELLULAR SYSTEMS, INC. TO BE
DESIGNATED AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

TABLE OF CONTENTS

I.	Advantage's Universal Service Offering	5
II.	Advantage Satisfies All the Statutory and Regulatory Prerequisites for Designation as an ETC	6
A.	The Tennessee Regulatory Authority Has Provided an Affirmative Statement that It Does Not Regulate CMRS Carriers	6
B.	Advantage Offers All of the Services Supported by the Federal Universal Service Program	8
C.	Advantage Will Offer Supported Services Through Its Own Facilities	14
D.	Advantage Will Advertise Its Universal Service Offering	14
III.	Advantage Requests Designation Throughout Its Licensed Service Area in Tennessee	15
IV.	Designation as an ETC for a Service Area Other than the Entire Study Area of Each Affected Incumbent LEC is Warranted Under the FCC's Rules	16
V.	A Grant of this Petition Will Serve the Public Interest	19
VI.	High-Cost Certification	26
VII.	Anti-drug Abuse Certification	26
VIII.	Conclusion	27

EXHIBITS

Letter to TRA	A
Advantage TRA ETC Application	B
TRA Conference Summary	C
Final TRA Order	D
Declaration of Wayne Gassaway	E
Advantage Local Calling Plans	F
Map of Advantage Service Area	G
Customers' Savings	H
Dallas News Article	I
High Cost Certification	J
Study Areas & Exchanges	K
Declaration of Wayne Gassaway	L

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**PETITION OF ADVANTAGE CELLULAR SYSTEMS, INC. TO BE
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Pursuant to Sections 214 and 254 of the Communications Act of 1934, as amended ("the Act"),¹ Advantage Cellular Systems, Inc. ("Advantage"), a Commercial Mobile Radio Service ("CMRS") carrier, by its attorneys, hereby respectfully requests that the Federal Communications Commission ("FCC" or "Commission") designate Advantage as an Eligible Telecommunications Carrier ("ETC") pursuant to Section 214(e)(6) of the Act.² Advantage seeks ETC status for the partial study areas of BellSouth Telecommunications Inc. ("BellSouth"), Ben Lomand Rural Telephone Cooperative Inc. ("Ben Lomand"), Bledsoe Telephone Cooperative Inc. ("Bledsoe"),

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). The 1996 Act amended the Communications Act of 1934. 47 U.S.C. § 151, et seq. ("the Act"); see 47 U.S.C. §§ 214 & 254.

² 47 U.S.C. § 214(e)(6).

Dekalb Telephone Cooperative, Inc. d/b/a DTC Communications (“DTC Communications”), Citizens Telecommunications Company of Tennessee d/b/a Frontier Communications (“Frontier”), North Central Telephone Cooperative Inc. (“North Central”), and Twin Lakes Telephone Cooperative Corporation (“Twin Lakes”). All of the above listed companies are rural telephone companies as defined in the Act, except BellSouth.³ As explained below, Advantage meets the requirements of the Act and the FCC should grant Advantage ETC status.

I. Advantage’s Universal Service Offering

Advantage, with principal offices at Highway 70 West, P.O. Box 457, Alexandria, TN 37012, Telephone (615) 464-2355; Fax (615) 529-1030, was granted authority to conduct business in Tennessee by order of the Tennessee Secretary of State dated December 20, 1990. Advantage is an affiliate of DTC Communications. Wayne Gassaway is the General Manager of Advantage and can be contacted at the above address and phone number. Advantage has obtained authority to transact business in the state of Tennessee as set forth in the provisions of the Tennessee Code Annotated, Title 48, Chapter 11, Part 309.

Advantage is a small B block licensee providing cellular service in rural Tennessee (Cannon, Tennessee RSA 2, CMA644). Advantage intends to obtain Federal universal service support in order to speed the delivery of advanced wireless services to Tennessee’s citizens. As an ETC, Advantage will also offer a *basic universal service* package to subscribers who are eligible for Lifeline support. Advantage expects that its service offering will be competitive with those of the incumbent wireline carriers.

³ 47 U.S.C. § 153(37).

Advantage currently provides all the services and functionalities supported by the Federal universal service program, enumerated in Section 54.101(a) of the Commission's Rules, throughout its wireless service area in Tennessee. Upon designation as an ETC, Advantage will make available to consumers a universal service offering over its wireless network infrastructure, using the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used by Advantage to serve its existing conventional mobile wireless service customers. Advantage will provide service to any customer requesting this service within the designated service area.

II. Advantage Satisfies All the Statutory and Regulatory Prerequisites for Designation as an ETC

Advantage satisfies each of the elements required for ETC designation by the FCC pursuant to Section 214(e)(6) set forth in the *FCC's Section 214(e)(6) Public Notice*,⁴ as shown below.

A. The Tennessee Regulatory Authority Has Provided an Affirmative Statement that It Does Not Regulate CMRS Carriers

As a CMRS carrier, Advantage is entitled to seek designation as an ETC.⁵ Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific Federal universal

⁴ See *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, 12 FCC Rcd 22947 (1997) ("*Section 214(e)(6) Public Notice*").

⁵ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *First Report and Order*, 12 FCC Rcd 8776, 8858-59 (1997) ("*First Report and Order*").

service support.”⁶ Pursuant to 47 U.S.C. § 214(e)(6), the Commission may, upon request, designate as an ETC “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State Commission.”⁷

In the *Section 214(e)(6) Public Notice*,⁸ the Commission established that a carrier must demonstrate it “is not subject to the jurisdiction of a state commission.” In its *Twelfth Report and Order*,⁹ the Commission stated that where a carrier provides the Commission with an “affirmative statement” from the state commission or a court of competent jurisdiction that the state lacks jurisdiction to perform the designation, the Commission would consider requests filed pursuant to 214(e)(6).¹⁰

On March 13, 2002, our office sent a letter to the Tennessee Regulatory Authority (“TRA”) stating that it is our understanding that TRA does not handle requests from CMRS carriers to be classified as an ETC.¹¹ We stated, however, that if our understanding was incorrect and TRA does handle ETC requests, Advantage would file its ETC application with TRA. In response to our letter, TRA staff instructed Advantage to file its ETC application with Sara Kyle, TRA Chairman. Accordingly, Advantage filed

⁶ 47 U.S.C. § 254(e).

⁷ 47 U.S.C. § 214(e)(6).

⁸ *Section 214(e)(6) Public Notice*, 12 FCC Rcd at 22948.

⁹ See *Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas. Including Tribal and Insular Areas, Twelfth Report and Order, and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 12208, 12264 (2000).

¹⁰ In re *Federal-State Joint Board on Universal Service, Farmers Cellular Telephone, Inc. Petition for Designation as an Eligible Telecommunications Carrier, Memorandum Opinion and Order*, CC Docket No. 96-45, DA 03-754 (March 12, 2003) (“*Farmers MO&O*”).

¹¹ See attached Exhibit A.

its ETC application with TRA on November 18, 2002.¹² On January 27, 2003, TRA concluded that Advantage “is not subject to TRA authority and therefore cannot be designated as an ETC consistent with Federal Statutes.”¹³ Attached is a copy of TRA’s Final Order concluding that it lacks jurisdiction over CMRS providers like Advantage.¹⁴ TRA has clearly indicated that it does not have jurisdiction over Advantage and therefore cannot designate it as an ETC. The Order states, “[t]he panel noted that the FCC is the appropriate forum for Advantage to pursue ETC status pursuant to 47 U.S.C. § 214(e)(6).”¹⁵ Accordingly, Advantage hereby requests that the FCC designate Advantage as an ETC pursuant to Section 254(c) of the Act.

B. Advantage Offers All of the Services Supported by the Federal High-Cost Universal Service Program

In order to be designated as an ETC, a carrier must be a common carrier and must offer and advertise the supported services throughout the designated service area.¹⁶ Section 254(c) of the Act and Section 54.101 of the FCC’s Rules establish “core” or designated services that are supported by Federal universal service support mechanisms.¹⁷ These core services include:

1. voice grade access to the public switched network;

¹² See attached Exhibit B.

¹³ See attached Exhibit C.

¹⁴ See attached Exhibit D.

¹⁵ See attached Exhibit D.

¹⁶ 47 U.S.C. § 214(e)(1).

¹⁷ See 47 U.S.C. § 254(c); 47 C.F.R. § 54.101.

2. an amount of local usage free of (additional) charge;
3. Dual Tone Multi-Frequency signaling or its functional equivalent;
4. single party service;
5. access to emergency services;
6. access to operator services;
7. access to interexchange service;
8. access to directory assistance; and
9. toll limitation services for qualifying low-income consumers on at least one calling plan.

Advantage offers the entire required “core” services listed above.

According to the *Section 214(e)(6) Public Notice*, a certification that the carrier provides each of the supported services is required.¹⁸ As shown below and in the attached Declaration,¹⁹ Advantage now provides or will provide, upon designation, the required services.

1. Voice-grade Access to the Public Switched Telephone Network. The FCC has concluded that voice-grade access means the ability to make and receive phone calls, within a bandwidth of approximately 2700 hertz within the 300 to 3000 hertz frequency range.²⁰ Advantage meets this requirement by providing voice-grade access to the public switched telephone network. Through its interconnection arrangements with other local

¹⁸ See *Section 214(e)(6) Public Notice*, 12 FCC Rcd at 22948.

¹⁹ See attached Exhibit E.

²⁰ See *First Report and Order*, 12 FCC Rcd at 8810-11.

exchange carriers (“LECs”), all of Advantage’s customers are able to make and receive calls on the public switched telephone network within the specified bandwidth.

2. Local Usage. Beyond providing access to the public switched network, an ETC must include local usage as part of a universal service offering. The FCC has not yet quantified a minimum amount of local usage required to be included in a universal service offering, but has initiated a separate proceeding to address this issue.²¹ As it relates to local usage, the *NPRM* sought comments on a definition of the public service package that must be offered by all ETCs. Specifically, the FCC sought comment on how much, if any, local usage should be required to be provided to customers as part of a universal service offering.²² In the *First Report and Order*, the FCC deferred a determination on the amount of local usage that a carrier would be required to provide.²³ Any minimum local usage requirement established by the FCC as a result of the *October 1998 NPRM* will be applicable to all designated ETCs, not just wireless service providers. Advantage will comply with any and all minimum local usage requirements adopted by the FCC. Although the Commission has not set a minimum local usage requirement, in the *Universal Service Order*, the Commission determined that ETCs should provide some minimum amount of local usage as part of their “basic service”

²¹ See *Guam Cellular and Paging, Inc.*, CC Docket No. 96-45, DA 02-174 at ¶ 11 (Jan. 25, 2002); *Federal-State Joint Board on Universal Service, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 13 FCC Rcd 21252 (1998) (“*October 1998 NPRM*”); See 47 C.F.R. § 54.101(a)(2).

²² See *October 1998 NPRM*, 13 FCC Rcd at 21277-21281.

²³ See *First Report and Order*, 12 FCC Rcd at 8813. See also *Western Wireless Corporation*, 16 FCC Rcd 48, 52-53 (2000) (“*Wyoming Order*”); *Cellco Partnership*, 16 FCC Rcd 39, 42 (2000).

package of supported services.²⁴ Advantage will meet the local usage requirements by including a variety of local usage plans as part of a universal service offering.

Advantage's service includes local usage that allows customers to originate and terminate calls within its local calling area without incurring toll charges. For a complete list of Advantage's local calling plans included in its universal service offering, see attached Exhibit F.

3. Dual-Tone, Multi-Frequency ("DTMF") Signaling, or its Functional Equivalent.

DTMF is a method of signaling that facilitates the transportation of call set-up and call detail information. Consistent with the principles of competitive and technological neutrality, the FCC permits carriers to provide signaling that is functionally equivalent to DTMF in satisfaction of this service requirement.²⁵ Advantage currently uses out-of-band digital signaling and in-band multi-frequency ("MF") signaling that is functionally equivalent to DTMF signaling. Advantage therefore meets the requirement to provide DTMF signaling or its functional equivalent.

4. Single-Party Service or its Functional Equivalent. "Single-party service" means that only one party will be served by a subscriber loop or access line as opposed to a multi-party line.²⁶ The FCC concluded that a wireless provider offers the equivalent of single-party service when it offers a dedicated message path for the length of a user's

²⁴ See *Federal-State Joint Board on Universal Service, Report and Order*, CC Docket No. 96-45, 12 FCC Rcd 8776 at ¶ 67 (1997) ("*Universal Service Order*"). Although the Commission's rules define "local usage" as "an amount of minutes of use of exchange service, prescribed by the Commission, provided free of charge to end users," the Commission has not specified a number of minutes of use.

²⁵ 47 C.F.R. § 54.101(a)(3).

²⁶ See *First Report and Order*, 12 FCC Rcd at 8810.

particular transmission. Advantage meets the requirement of single-party service by providing a dedicated message path for the length of all customer calls.

5. Access to Emergency Services. The ability to reach a public emergency service provider by dialing 911 is a required service in any universal service offering.²⁷

Advantage is currently providing Phase I Enhanced 911 service in accordance with the Commission's rules.²⁸ Phase II Enhanced 911 ("E911"), which is required of certain CMRS carriers, includes the capability of providing both automatic numbering information ("ANI") and automatic location information ("ALI"). Unlike traditional wireline emergency services, Phase I and Phase II emergency services provide customers with a public safety benefit *away* from their homes. Advantage has implemented Phase I and currently provides all of its customers with access to emergency service by dialing 911. Further, Advantage has implemented a network-based Phase II system in its service area and is testing it with its local public safety answering point ("PSAP"). Advantage's Phase II application is predicted to meet the FCC's Phase II accuracy standards provided the E911 calls placed by its customers fall within a predicted statistical range of coverage and will provide Advantage's universal service customers with the added benefit of location-based safety.²⁹ By providing Phase I E911 service, Advantage not only meets, but exceeds the Commission's universal service requirement to provide access to emergency service.

²⁷ *See id.* at 8815-17.

²⁸ *See* 47 C.F.R. § 20.18(d).

²⁹ Advantage operates in a single geographic service area and therefore cannot guarantee that E911 calls placed at the fringe of its territory will meet the Commission's accuracy requirements.

6. Access to Operator Services. Access to operator services is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call.³⁰ Advantage meets this requirement by providing all of its customers with access to operator services provided by DTC Communications.
7. Access to Interexchange Service. An ETC must offer consumers access to interexchange service to make and receive toll or interexchange calls. Advantage currently meets this requirement by providing all of its customers with the ability to make and receive interexchange or toll calls through direct interconnection arrangements Advantage has with several interexchange carriers (“IXCs”).
8. Access to Directory Assistance. The ability to place a call to directory assistance is a required service offering.³¹ Advantage meets this requirement by providing all of its customers with access to directory assistance by dialing “411” or “555-1212.”
9. Toll limitation for qualifying low-income consumers. An ETC must offer either “toll control” or “toll blocking” services to qualifying Lifeline customers at no charge. The FCC no longer requires an ETC to provide both services as part of the toll limitation service required under Section 54.101(a)(9) of the FCC’s Rules.³² In particular, all ETCs must provide toll blocking, which allows customers to block the completion of outgoing toll calls.³³ Advantage currently has no Lifeline customers because only carriers

³⁰ See *First Report and Order*, 12 FCC Rcd at 8817-18.

³¹ *Id.* at 8821.

³² See *Universal Service Fourth Order on Reconsideration in CC Docket No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72*, 13 FCC Rcd 5318 (1997).

³³ *First Report and Order*, 12 FCC Rcd at 8821-22.

designated as an ETC can participate in Lifeline.³⁴ Once designated as an ETC, Advantage will participate in Lifeline as required, and will provide toll blocking capability in satisfaction of the FCC's requirement. Advantage provides toll blocking services for international calls and customer selected toll calls.

Accordingly, Advantage currently has the technology to provide toll blocking and will use this technology to provide the service to its Lifeline customers, at no charge, as part of its universal service offerings.

C. Advantage Will Offer Supported Services Through Its Own Facilities

A carrier requesting designation must certify that it offers the supported services "either using its own facilities or a combination of its own facilities and resale of another carrier's services."³⁵ Advantage will provide the supported services using its existing network infrastructure, which includes the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used by the company to serve its existing customers.

D. Advantage Will Advertise Its Universal Service Offering

Pursuant to Section 54.201(d) of the FCC's Rules, Advantage plans to advertise the availability and price of its universal service offering which comports with the core list of universal service requirements throughout the area in which it is designated as an

³⁴ See 47 C.F.R. §§ 54.400-415.

³⁵ 47 C.F.R. § 54.201(d)(1).

ETC.³⁶ Recently the Commission stated that, “[b]ecause ETCs receive universal service support only to the extent that they serve customers, we believe that strong economic incentives exist, in addition to the statutory obligation, to advertise the universal service offerings in the requested service area...”³⁷ In order to fulfill the statutory obligation and because of strong economic incentives, Advantage will advertise using, at a minimum, publication in eleven newspapers of general circulation including *The Cannon Courier*, *The Carthage Courier*, *The Expositor*, *The Journal*, *The Grundy County Herald*, *The Manchester Times*, *The Middle Tennessee Times*, *The Mountain View*, *The Smithville Review*, *The Southern Standard*, and *The Tullahoma News*, throughout the partial service areas of BellSouth, Ben Lomand, Bledsoe, DTC Communications, Frontier, North Central, and Twin Lakes or by other means as management may direct using good business practices and such guidance as the FCC has or may establish.

III. Advantage Requests Designation Throughout Its Licensed Service Area in Tennessee

Advantage is a CMRS carrier as that term is defined in Section 20.3 of the Commission’s Rules. Advantage operates a state-of-the-art wireless CMRS network throughout the partial study areas of BellSouth, Ben Lomand, Bledsoe, DTC Communications, Frontier, North Central, and Twin Lakes. Advantage offers a variety of calling plans to approximately 10,500 existing customers. Advantage serves an area of

³⁶ 47 C.F.R. § 54.201(d).

³⁷ *In re Federal-State Joint Board on Universal Service, Farmers Cellular Telephone, Inc. Petition for Designation as an Eligible Telecommunications Carrier, Memorandum Opinion and Order* at ¶ 11, CC Docket No. 96-45, DA 03-754 (March 12, 2003) (“*Farmers MO&O*”).

central Tennessee consisting of tree-covered rolling hills with a fairly low subscriber density. According to the 2000 census,³⁸ the counties served by Advantage have a population density of 64 persons per square mile compared to a Tennessee average of 138 persons per square mile. The population density ranges from a low of 20 to a high of 112, all well below the Tennessee average and all but 2 counties with population densities below the national average of 80. Non-farm business establishments amount to only 1.2 businesses per square mile, again below the Tennessee average (3.2) and the national average (2.0).

IV. Designation as an ETC for a Service Area Other than the Entire Study Area of Each Affected Incumbent LEC is Warranted Under the FCC's Rules

The area requested by Advantage for ETC designation only partially covers the study area of the following Tennessee incumbent rural LECs: BellSouth, Ben Lomand, Bledsoe, DTC Communications, Frontier, North Central and Twin Lakes. Therefore, the FCC must make a determination under Section 54.207 as to whether Advantage's designated ETC service area may differ from the study area boundaries of these rural ILECs.

Allowing competitive carriers to be designated for service areas that do not comprise entire rural LEC study areas is necessary in order to facilitate competitive entry. Pursuant to Section 54.207(c)(1), a petition to define a designated service area in this manner must contain "an analysis that takes into account the recommendations of any

³⁸ See the Census Bureau's website, www.census.gov.

Federal-State Joint Board convened to provide recommendations with respect to the definition of a service area served by a rural telephone company.”³⁹ In the *Recommended Decision*, which laid the foundation for the FCC’s *First Report and Order*, the Federal-State Joint Board (“Joint Board”) enumerated three factors to be considered when reviewing a request for designation as an ETC for a geographical area that differs from a rural LEC’s entire study area.⁴⁰

The Joint Board advised the state commission to consider whether the competitive carrier is attempting to “cream skim” by only proposing to serve the lowest cost exchanges.⁴¹ As a wireless carrier, Advantage is restricted to providing service to those areas where it holds a CMRS license issued by the FCC. As evidenced herein, Advantage is not picking and choosing the lowest cost exchanges. Advantage has based its ETC request solely on its licensed service area and proposes to serve its entire service area. As of May 2002, rural ILECs had the opportunity to select among three paths adopted in the *Fourteenth Report and Order* for the disaggregation and targeting of universal service support below the study area level.⁴² According to the Universal Service Administrative Company (“USAC”), none of the ILECs with which Advantage will compete have chosen to disaggregate their costs. Thus, the incumbent LECs with which Advantage will compete had an opportunity to address disparate costs within their service territories and prevent “cream-skimming” within their study area. Each

³⁹ 47 C.F.R. § 54.207(c)(1).

⁴⁰ *Federal-State Joint Board on Universal Service. Recommended Decision*, 12 FCC Rcd 87, 155 (1996) (“*Recommended Decision*”).

⁴¹ *Recommended Decision*, 12 FCC Rcd 87 at ¶¶ 156 & 172.

⁴² See *Fourteenth Report and Order*, 16 FCC Rcd 11294, 11302 (2001).

incumbent LEC in whose service territory Advantage seeks ETC designation determined that such disaggregation was unnecessary.

Next, the Joint Board urged the Commission to consider the rural carrier's special status under the Act.⁴³ In deciding whether to award ETC status to Advantage the Commission will weigh numerous factors to determine how the public interest is affected by an award of ETC status pursuant to Section 214(e)(1) of the Act.⁴⁴ Congress mandated this public interest analysis in order to protect the special status of rural carriers in the same way it established considerations for rural carriers with regard to interconnection, unbundling, and resale requirements. Accordingly, if the Commission finds that Advantage's ETC designation is in the public interest, it has duly recognized the special status of the rural carrier for purposes of determining whether Advantage's service area designation should be adopted for Federal universal service funding purposes. Advantage demonstrates that a Commission designation of Advantage as an ETC furthers the public interest in a later section of this petition.

Last, the Joint Board recommended that the FCC consider the administrative burden a rural LEC would face by calculating its cost on a basis other than its entire study area.⁴⁵ In the instant case, Advantage's request to define its service area along boundaries that differ from rural LEC study area boundaries is made solely for the purpose of ETC designation. Defining the service area in this manner will not impact the way the affected rural LECs calculate their costs. It is solely to determine the

⁴³ *Recommended Decision*, 12 FCC Rcd 87 at ¶¶ 172-174.

⁴⁴ In the next section of this Petition, Advantage will demonstrate that its designation as an ETC is in the public interest.

⁴⁵ *Recommended Decision*, 12 FCC Rcd 87 at ¶ 174.

geographical area in which Advantage is to be designated as an ETC. Definition of Advantage's service area as proposed in the Petition will not impose any additional burdens on rural LECs. Accordingly, Advantage respectfully requests that the FCC designate it as an ETC throughout the proposed ETC service area.⁴⁶

V. A Grant of this Petition Will Serve the Public Interest

Because Advantage is seeking designation in areas served by rural LECs, the FCC must consider public interest factors prior to designating Advantage as an ETC. The FCC has often recognized the competitive advantages that wireless carriers bring to underserved or rural areas when providing universal service. Recently the FCC granted Petitions filed by Farmers Cellular Telephone, Inc. ("Farmers"),⁴⁷ RCC Holdings ("RCC"),⁴⁸ and Cellular South License, Inc. ("Cellular South")⁴⁹ to be designated as an ETC. The Commission found that designating these carriers as ETCs would serve the public interest, stating "[a]n important goal of the 1996 Act is to open local telecommunications markets to competition."⁵⁰ The Commission has held that designation of qualified ETCs promotes competition and benefits consumers by

⁴⁶ See attached Exhibit G.

⁴⁷ See *Farmers MO&O*.

⁴⁸ *In re Federal State Joint Board on Universal Service; RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama*, Memorandum Opinion and Order, CC Docket 96-45 (rel. Nov. 27, 2002).

⁴⁹ *In re Federal State Joint Board on Universal Service; Cellular South License, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama*, Memorandum Opinion and Order, CC Docket 96-45 (rel. Dec. 4, 2002).

⁵⁰ *In re Federal State Joint Board on Universal Service; RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama*, Memorandum Opinion and Order at ¶ 23, CC Docket 96-45 (rel. Nov. 27, 2002).

increasing consumer choice, encouraging innovative services, and introducing new technologies.⁵¹ Designating Advantage as an ETC will allow customers in rural Tennessee to choose service based on pricing, service quality, customer service, and service availability. Advantage offers mobility, enhanced access to E911, expanded calling scopes and several calling plans to allow customers to purchase plans that fit their telecommunications needs.

The FCC has recognized the advantages wireless carriers can bring to the universal service program. In particular, the FCC found that “imposing additional burdens on wireless entrants would be particularly harmful to competition in rural areas, where wireless carriers could potentially offer service at much lower costs than traditional wireline service.”⁵² One of the most important goals of the Act is to “promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.”⁵³ Competition reduces prices and promotes the development of advanced communications as carriers vie for a consumer’s business. In its recent decision to designate Guam Cellular and Paging, Inc. (“Guamcell”) as an ETC in the territory of Guam, the FCC found that the designation of Gaumcell as an ETC in the area served by the rural telephone company in Guam would promote “competition and the provision of new technologies to consumers in high-cost and rural areas of Guam.”⁵⁴

⁵¹ *Id*

⁵² *First Report and Order*, 12 FCC Rcd at 8881-8882.

⁵³ Telecommunications Act of 1996, Public Law, 104-104, 100 Stat. 56 (1996).

⁵⁴ *See Guam Cellular and Paging, Inc.*, CC Docket No. 96-45, DA 02-174 at ¶ 15 (Jan. 25, 2002).

Advantage will use its Federal universal service support for construction, maintenance and upgrading of facilities serving rural areas for which such support is intended. The terrain in middle Tennessee presents particular challenges to wireless carriers. The terrain in middle Tennessee is generally comprised of tree covered rolling hills that require careful engineering and more towers than those required in flatter, treeless areas. In addition, as Advantage upgrades its network and facilities to provide third-generation digital services to enhance the speed and quality of its universal service offerings, even more towers will be required.

The Commission has promoted wireless E911 as an important public policy goal and with good reason. While traditional wireline 911 is obviously quite valuable, it is limited to those situations where the consumer is actually near a wireline telephone. Since many accidents occur away from home (including all auto accidents), making wireless E911 available for consumers when they are away from home is critical. As the Commission is no doubt aware, E911 upgrades are expensive and Advantage will have to recover the ongoing costs related to E911 from its customers.

Next, Advantage believes the public interest is served by encouraging expanded local calling scopes and reduction or elimination of per-minute toll charges to customers calling within their communities of interest. As an initial matter, Advantage offers “an amount of local usage free of (additional) charge”. While all of Advantage’s qualifying calling plans satisfy this requirement, Advantage offers several popular calling plans that *include state-wide and/or nation-wide toll free calling with an additional 3,000 minutes* available for night and weekend use. As shown in attached Exhibit H, customers can begin saving money in the use of such calling scopes if they currently make as little as

245 intrastate toll calls a month.⁵⁵ If consumers subscribing to the lowest priced state-wide calling plan use only 20% of their total (3,400 MOU) available monthly minutes for toll calling (680 toll minutes), their savings can be significant, amounting to \$30.55.

Exhibit H also demonstrates that when purchasing more nation-wide “anytime” minutes at a higher price, customers will save \$58.15 when they use the service in a combination of “anytime” and “nights and weekend” calling where 40% of the calls are toll.

The positive impact of Advantage’s calling plans, and other wireless carriers’ wireless calling plans, on consumers is demonstrated by recent pricing decisions by several telecommunications companies in response to competition. SBC recently decided to offer a calling plan with unlimited monthly toll usage for an additional \$20.⁵⁶ The April 2, 2003 Internet edition of the *Dallas Morning News* quotes Imran Khan, an analyst with research firm Frost & Sullivan: “[o]nce wireless changed the consumer perception where they didn’t see any kind of difference between local calls and long-distance, these wireline companies were compelled to come up with these plans...They are facing such a level of competition that they don’t have a choice but to offer this stuff.”⁵⁷ The article attributed AT&T’s introduction of its \$19.95 unlimited plan when calling other AT&T customers and MCI’s Neighborhood plan offering unlimited local and toll calling for about \$60 to wireless competition. Clearly, consumers are being offered new and innovative calling plans and local calling scopes that are the direct result of the Commission’s pro-competitive policies and, more specifically, the calling plans offered

⁵⁵ See attached Exhibit H.

⁵⁶ See “SBC is latest to offer unlimited long-distance calls”, *Dallas Morning News* Internet Edition, April 2, 2003, <<http://www.dallasnews.com/business/technology/stories/040203dnbusdistance.37db8.html>>; attached hereto as Exhibit I.

⁵⁷ See <<http://www.dallasnews.com/business/technology/stories/040203dnbusdistance.37db8.html>>.

by wireless carriers. Supporting Advantage's enhanced calling scopes is consistent with the Commission's stated goals of using universal service support to encourage carriers to compete through the offering of innovative services, and thus Advantage should be designated as an ETC.

Finally, without the universal service program, it is unlikely that many rural areas would have wireline telephone service even today. In most rural areas, wireless cannot be counted on as a potential replacement for wireline service unless universal service support is made available to drive infrastructure investment. Numerous published sources indicate consumers are increasingly "cutting the cord" and wireless service is the only telephone service used by 3-5% of the population. According to the Cellular Telecommunications and Internet Association's ("CTIA") website on May 6, 2003, there are over 145 million customers subscribed to wireless services.⁵⁸ As stated above, Advantage serves over 10,000 customers. Clearly, customers recognize the value wireless service offers. If wireless services in rural areas are to replace wireline service, then universal service support is as important and perhaps more important to wireless providers compared to wireline providers.⁵⁹

It is increasingly challenging to finance the infrastructure necessary to ensure even more robust call quality that consumers expect of the wireline LECs. Thus, if wireless service is widely adopted, even in rural areas, and if the universal service program is to be "competitively" and "technologically" neutral, then it is in the public interest for Advantage to receive universal service support. *Since Advantage is serving the same population in the same geographic area as the incumbents with the same low*

⁵⁸ See CTIA's website, www.wow-com.com.

⁵⁹ See attached Exhibit I.

customer density and associated high per-customer costs, and Advantage also must address its own terrain coverage challenges, it is in the public interest to designate Advantage as an ETC.

Provision of universal service support to Advantage will make available for the first time a potential competitor for primary telephone service in remote areas of Tennessee. By designating Advantage as an ETC, the FCC will further the benefits of competition, including increased choices, increased public safety, higher quality service, and lower rates for consumers in rural Tennessee.

The public-interest standard under Section 214(e)(2) for designating ETCs in territories served by rural telephone companies emphasizes competition and consumer benefit, not incumbent protection. In considering the impact that Western Wireless' ETC designation would have on rural telephone companies, the Commission said, "[w]e believe that competition may provide incentives to the incumbent to implement new operating efficiencies, lower prices, and offer better service to its customers."⁶⁰ The pricing decisions of SBC, AT&T and MCI, as cited herein demonstrate the Commission's belief was well founded. Advantage believes that the benefits of competition will also accrue to its rural customers. Congress has also mandated that universal service provisions be "competitively neutral" and "necessary to preserve and advance universal service."⁶¹ Designating Advantage as an ETC would give advanced telecommunications options to those living in Tennessee's rural areas.

⁶⁰ *Wyoming Order*, 16 FCC Rcd at 57.

⁶¹ *See* 47 U.S.C. § 253(b).

Advantage has already implemented a variety of service offerings and rate plans that will be competitive with incumbent service offerings and affordable to Tennessee's consumers.⁶² Advantage commits that its local calling area will be at least as large as that of the ILECs referenced herein and in most cases its local calling area will be substantially larger which will reduce intra-LATA toll charges typically associated with wireline service. Advantage has already implemented E911 services in compliance with all state and Federal requirements, which will improve public safety in rural Tennessee. Advantage will also offer LifeLine and LinkUp services to qualifying low-income consumers consistent with Federal and state rules, regulations and guidelines.

As stated above, the Commission must consider whether the competitive carrier is attempting to "cream skim" by only proposing to serve the lowest cost exchanges.⁶³ As a wireless carrier, Advantage is restricted to providing service in those areas where it holds a license issued by the FCC. Advantage is not picking and choosing the lowest cost exchanges, rather Advantage has based its ETC request solely on its licensed service area and proposes to serve its entire service area.

Advantage submits that it has demonstrated its ability to fulfill its obligations as set forth in this instant Petition for certification as an ETC. Advantage respectfully submits that its request to be designated as an ETC serves the public interest, convenience, and necessity for all the reasons stated herein and as required by Section 214(e)(6).

⁶² See attached Exhibit H.

⁶³ *Recommended Decision*, 12 FCC Rcd 87 at ¶ 174.

VI. High-Cost Certification

Under Sections 54.313 and 54.314 of the FCC's Rules, carriers wishing to obtain universal service support must either be certified by the appropriate state commission or, where the state commission does not exercise jurisdiction, self-certify with the FCC and USAC as to their compliance with Section 254(e) of the Telecommunications Act of 1996.⁶⁴ As explained above, the TRA does not exercise jurisdiction over CMRS carriers such as Advantage. Therefore, in accordance with Sections 54.313(b) and 54.314(b), Advantage submits its universal service certification with this petition and upon Commission designation as an ETC will submit this and all required certifications to USAC.⁶⁵ Advantage respectfully requests that the Commission issue a finding that Advantage has met the universal service certification requirement and that Advantage is, therefore, entitled to begin receiving universal service support as of the date it receives a grant of ETC status in order that funding will not be delayed.

VII. Anti-drug Abuse Certification

Advantage certifies that no party to this Petition is subject to a denial of Federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.⁶⁶

⁶⁴ 47 C.F.R. §§ 54.313, 54.314.

⁶⁵ A copy of this certification is attached hereto as Exhibit J.

⁶⁶ See attached Exhibit L.

VIII. Conclusion

As stated above, the FCC has recently granted petitions filed by Farmers, RCC, and Cellular South to be designated as an ETC throughout their licensed service areas in Alabama. Advantage requests that, pursuant to Commission precedent, the FCC grant Advantage ETC status and allow it to qualify for universal service support.

Because Advantage meets the requirements of Sections 214 and 254 of the Act, as well as the Commission's Rules implementing the Act, and Advantage's ETC application is consistent with the public interest, convenience, and necessity, the FCC should grant Advantage ETC status and allow it to qualify for universal service support within the requested service area. Advantage also submits that an expedited grant of this application is in the public interest, convenience, and necessity and consistent with Sections 214 and 254 of the Act.

Respectfully submitted,

ADVANTAGE CELLULAR SYSTEMS, INC.

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